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10/550,197	09/21/2005	Young-Tack Sul	P57672	7327

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WASHINGTON, DC 20006-1004

EXAMINER

LEWIS, RALPH A

ART UNIT	PAPER NUMBER
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3732

NOTIFICATION DATE	DELIVERY MODE
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ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

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In re Application of: SUL, YOUNG-TAEK
Serial No.: 10/550,197
Filed: Sep. 21, 2005
Attorney's Docket: P57672
Title: HELICAL IMPLANT

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: DECISION ON PETITION
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This is a decision on the renewed petition filed on February 4, 2008 by which petitioner requests the Director reconsider the earlier dismissal decision and review the examiner's drawing objection in the Office action of August 4, 2006 and again in the final Office action of Apr. 10, 2007. Petitioner believes that the objection to the drawings is in error and requests the drawing objection be withdrawn. This petition is considered as pursuant to 37 CFR 1.181 and no fee is required.

The petition is **DENIED**.

The relevant record shows that:

In the non-final Office action of Aug. 4, 2006 and again in the final Office action of Apr. 10, 2007, the examiner requested that applicant to designate by a legend such as "Prior Art" next to Figs. 6-8. On pages 8 of the renewed petition, the applicant agreed that Figs. 7 and 8 as "Prior Art". Therefore, Figs. 7 and 8 of the new drawings filed on May 14, 2007 are accepted. The remaining issue in the renewed petition is whether Fig. 6 should be labeled as "Prior Art". In the renewed petition, petitioner argues the legal definition of what "prior art" is under the US patent laws and practices. In particular, the word "conventional" associated with Fig. 6 in the current specification does not mean "prior art".

Discussion and Analysis

With regard to the drawing objection in the August 4, 2006 Office action and again in the final Office action of Apr. 10, 2007, it must be noted and agreed that in the current patent application, nowhere does the applicant indicate Fig. 6 is a prior art feature. However, it should be noted that

the certified copy¹ of the Korean language patent application 10-2003-0018745 filed September 21, 2005 appears to indicate that Fig. 6 is a conventional or prior art feature. The Office has obtained a copy of machine translated Korean language patent application 10-2003-0018745 filed on September 21, 2005. Under various headings of the machine translated Korean language patent application 10-2003-0018745, the English translation clearly indicates that Fig. 6 is a conventional and prior art feature. Therefore, the examiner's objection of Fig. 6 for failure to label as "prior art" is proper in accordance with MPEP § 608.02(g).

With regard to arguments that the word "conventional" does not mean "prior art" in the US patent laws and practices. This line of arguments is not persuasive because the issue here is a simple translation from Korean language to English language. The applicant should know the contents of his/her own Korean language patent application 10-2003-0018745. Under the heading of "The Technical Field to Which the Invention belongs and the Prior Art in that Filed" of the Korean language patent application, Fig. 6 is clearly explained as a conventional or prior art feature. Under the circumstances, in the alternative a new drawing of Fig. 6 labeled as "Conventional" would be acceptable to comply with the examiner's drawing objection.

Conclusion

For the foregoing reasons, the relief requested by petitioner will not be granted. Specifically, the examiner's objection to Fig. 6 for failure to label as "prior art" remains and will not be withdrawn.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3732 awaiting for a Reply Brief, if any. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner at (571) 272-4856.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181" and directed to the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02(b).

Accordingly, the petition is denied.



Robert Olszewski, Director
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And Designs

¹ Machine translated Korean language patent application attached